

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 728

92ND GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, March 18, 2004, with recommendation that the Senate Committee Substitute do pass.

2725S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 135, RSMo, by adding thereto two new sections relating to tax credits for health insurance premiums, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto two new sections, to be known as sections 135.097 and 135.098, to read as follows:

135.097. As used in sections 135.097 and 135.098, the following words or phrases shall mean:

(1) "Eligible employee", an employee who works on a full-time basis and has an average work week of thirty or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary, or substitute basis. For purposes of this section, a person, such person's spouse, and such person's minor children shall constitute only one eligible employee when they are employed by the same small employer; except that, in the case of a person who is a farmer, such person may constitute an eligible employee and such person's spouse, if hired by such person, may constitute a second eligible employee;

(2) "Eligible small employer", any person, firm, corporation, partnership, or association that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed not less than one nor more than seventy-five eligible

employees, the majority of whom were employed within this state. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one employer;

(3) "Farmer", any person who derives at least two-thirds of such person's income from using or cultivating land for the production of agricultural crops, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products; provided that, the term shall not include a person who processes farm products or distributes farming supplies by contracting to provide spraying, harvesting, or other farming services;

(4) "Health reimbursement arrangement", an employee benefit plan provided by an employer which:

(a) Establishes an account or trust which is funded solely by the employer and not through a salary reduction or otherwise a cafeteria plan established pursuant to Section 125 of the Internal Revenue Code;

(b) Reimburses the employee for medical care expenses, as defined by 26 U.S.C. Section 213(d), incurred by the employee or the dependents of the employee;

(c) Provides reimbursements up to a maximum stated dollar amount for a defined coverage period;

(d) Carries forward any unused portion of the maximum dollar amount at the end of the coverage period to increase the maximum amount in subsequent coverage periods; and

(e) Provides a qualified higher deductible health insurance plan for the benefit of an employee and his or her dependents when the employee exhausts the contributions made to the health reimbursement account.

135.098. 1. In order to encourage and foster health insurance for employees of small employers, an eligible small employer shall be allowed a credit not to exceed two thousand dollars per eligible small employer against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to ten percent of the amount contributed to each health reimbursement arrangement per eligible employee for the first two tax years in which the employer contributes to any health reimbursement arrangement.

2. The tax credit allowed by this section shall be claimed by the taxpayer at the time such taxpayer files a return. Any amount of tax credit which exceeds the tax due shall be carried over to any of the next five subsequent taxable years, but shall not be refunded and shall not be transferable.

3. The director of the department of insurance and the director of the department of revenue shall jointly administer the tax credit authorized by this section. Both the director of the department of insurance and the director of the department of revenue are authorized to promulgate rules and regulations necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

4. The tax credits issued pursuant to this section shall not exceed a total for all tax credits issued of five million dollars per fiscal year.

5. The provisions of this section shall become effective on January 1, 2005, and shall apply to all taxable years beginning after December 31, 2004.

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